

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

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| Applicant's or agent's file reference C 2079PCT | FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) | |
| International application No. PCT/EP00/08960 | International filing date (day/month/year) 14 September 2000 (14.09.00) | Priority date (day/month/year) 23 September 1999 (23.09.99) |
| International Patent Classification (IPC) or national classification and IPC A61K 7/48, | | |
| Applicant COGNIS DEUTSCHLAND GMBH & CO. KG | | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 2 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☒ Certain defects in the international application
- VIII ☒ Certain observations on the international application

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| Date of submission of the demand 02 March 2001 (02.03.01) | Date of completion of this report 29 October 2001 (29.10.2001) |
| Name and mailing address of the IPEA/EP | Authorized officer |
| Facsimile No. | Telephone No. |

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP00/08960

I. Basis of the report

1. This report has been drawn on the basis of (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.*):

☒ the international application as originally filed.

☒ the description, pages 1-21, as originally filed,
pages _____, filed with the demand,
pages _____, filed with the letter of _____,
pages _____, filed with the letter of _____.

☒ the claims, Nos. _____, as originally filed,
Nos. _____, as amended under Article 19,
Nos. _____, filed with the demand,
Nos. 1-10, filed with the letter of 20 August 2001 (20.08.2001),
Nos. _____, filed with the letter of _____.

☐ the drawings, sheets/fig _____, as originally filed,
sheets/fig _____, filed with the demand,
sheets/fig _____, filed with the letter of _____,
sheets/fig _____, filed with the letter of _____.

2. The amendments have resulted in the cancellation of:

☐ the description, pages _____

☐ the claims, Nos. _____

☐ the drawings, sheets/fig _____

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

4. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

| | | | |
|-------------------------------|--------|------|-----|
| Novelty (N) | Claims | 1-10 | YES |
| | Claims | | NO |
| Inventive step (IS) | Claims | 1-10 | YES |
| | Claims | | NO |
| Industrial applicability (IA) | Claims | 1-10 | YES |
| | Claims | | NO |

2. Citations and explanations

This report makes reference to the following document:

D1: WO-A-99/24535 (HENKEL ET AL.) 20 May 1999 (1999-05-20).

Observations with regard to the industrial applicability of Claims 1 to 10

The PCT Contracting States do not have uniform criteria for assessing the industrial applicability of the subject matter of the present Claims 1 to 10. Patentability may depend on the wording of the claims. The EPO, for example, does not recognize the industrial applicability of claims to the medical use of a compound; it does, however, allow claims to the first medical use of a known compound or to the use of such a compound in the manufacture of a drug for a new medical application.

1. Novelty - PCT Article 33(1) and (2)

Claims 1 to 10 of the present application meet the criteria of novelty.

2. Inventive step - PCT Article 33(1) and (3)

2.1 The problem addressed by the present invention consists in providing preparations on the basis of alk(en)yl oligoglycosides which are characterized by good tolerability by the skin and the mucous membrane of the eye.

2.2 The solution consists in the fact that these preparations contain monoesters of dicarbonic acid with fatty alcohols whose alkyl group or alkenyl group corresponds to the alkyl oligoglycosides or alkenyl oligoglycosides.

2.3 D1 describes dishwashing liquid in which C12-C16-alkyl polyglucoside (DP = 1,4), hexadecyl Bernstein acid behenyl monoesters and tensides are used. The composition is skin-friendly (D1, pages 14-15).

2.4 D1 does not suggest that precisely the combination of the same alk(en)yl chains is well tolerated by the skin and in particular also by the mucous membrane of the eye.

Thus subject matter according to Claims 1 and 10 of the present application is not obvious from the prior art. The solution therefore involves an inventive step.

VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

Contrary to PCT Rule 5.1(a)(ii), the description does not cite D1 or indicate the relevant prior art disclosed therein.

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

The term "oligoglycosides" used in Claims 1 and 10 is vague and unclear. Consequently, the definition of the subject matter of these claims is not clear (PCT Article 6).